

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

TONYA RIFFE,

Plaintiff,

v.

CIVIL ACTION NO. 1:20-00448

Kilolo Kijakazi,<sup>1</sup>  
Acting Commissioner of the  
Social Security Administration,

Defendant.

**MEMORANDUM OPINION AND ORDER**

By Standing Order, this action was referred to United States Magistrate Judge Cheryl A. Eifert for submission of findings and recommendations regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Eifert submitted to the court her Proposed Findings and Recommendation ("PF&R") on June 7, 2021, in which she recommended that the court grant plaintiff's request for judgment on the pleadings (ECF No. 14), to the extent that it requests remand of defendant's decision; deny defendant's request to affirm defendant's decision (ECF No. 16); reverse defendant's final decision; remand this matter

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<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of the Social Security Administration on July 9, 2021. Pursuant to Fed. R. Civ. P. 25(d), Kijakazi was substituted for Andrew Saul as the defendant in this action.

pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with this PF&R; and dismiss this action from the court's docket. (ECF No. 17.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days and three mailing days in which to file objections to the PF&R. The failure of any party to file such objections within the time allowed constitutes a waiver of such party's right to a de novo review by this court. See Thomas v. Arn, 474 U.S. 140, 149-50 (1985); Snyder v. Ridenour, 889 F.2d 1363, 1365-66 (4th Cir. 1989); see also 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." (emphasis added)). Neither party filed objections to the PF&R within the required time period.

Accordingly, the court adopts the PF&R as follows:

1. Plaintiff's request for judgment on the pleadings (ECF No. 14) is **GRANTED** to the extent that it requests remand of defendant's decision;
2. Defendant's request to affirm the decision below (ECF No. 16) is **DENIED**;
3. Defendant's final decision is **REVERSED**;

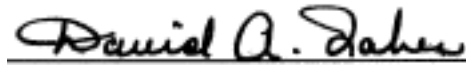
4. This matter is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with the PF&R; and

5. This action is **DISMISSED** from the court's docket.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record and any unrepresented parties.

**IT IS SO ORDERED** this 3rd day of November, 2021.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge